

SENSITIVE

FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

MUR: 5384

DATE COMPLAINT FILED: August 26, 2003

DATE OF NOTIFICATION: September 8, 2003

DATE ACTIVATED: December 9, 2003

EXPIRATION OF SOL: June 1, 2008

MUR: 5385

DATE COMPLAINT FILED: September 3, 2003

DATE OF NOTIFICATION: September 10, 2003

DATE ACTIVATED: December 9, 2003

EXPIRATION OF SOL: August 1, 2008

COMPLAINANT:

Gephardt for President, Inc.

RESPONDENTS:**MUR 5384**

Never Stop Dreaming, Inc.

Person Unknown a/k/a Jade Newhart

Person Unknown a/k/a Bill Baulding

MUR 5385

Groundswell Voters PAC

Jonathan Mosier

Jerome Dewald

RELEVANT STATUTES:

2 U.S.C. § 431(8), (9)

2 U.S.C. § 433

2 U.S.C. § 434

2 U.S.C. § 438(a)(4)

2 U.S.C. § 441h(b)

11 C.F.R. § 104.15(b)

11 C.F.R. § 110.16(b)

INTERNAL REPORTS CHECKED:

Disclosure reports; Commission indices

FEDERAL AGENCIES CHECKED:

Internal Revenue Service

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I. INTRODUCTION

MURs 5384 and 5385 involve allegations that two organizations, Never Stop Dreaming, Inc. ("NSD") and Groundswell Voters PAC ("Groundswell"), violated the Federal Election Campaign Act of 1971, as amended ("the Act"), by engaging in fraudulent solicitation of campaign funds by purporting to act for or on behalf of Congressman Richard Gephardt, a former candidate for the Democratic Presidential nomination. The complainant in both matters, Congressman Gephardt's authorized campaign committee, Gephardt for President, Inc. ("Gephardt Committee"), asserts that no one associated with Congressman Gephardt or his committee possessed prior knowledge of the fraudulent fundraising activities allegedly conducted by the respondents. The complaint in MUR 5385 also alleges that Groundswell violated the Act by obtaining the names of individuals it solicited for contributions from reports on file with the Commission and by failing to register as a political committee with the Commission despite having expressly advocated the election of Congressman Gephardt and having represented itself to the public as a PAC.

This Office is presenting these matters in a single report because both involve complaints filed by the Gephardt Committee regarding the alleged fraudulent solicitation of funds. The allegedly fraudulent fundraising schemes in both matters involved the same candidate, occurred around the same time and appear to have used similar *modus operandi*, including renting local business suites and providing false information (*e.g.*, that the organization has tax-exempt or political committee status) presumably intended to lend each organization an air of legitimacy. It is thus possible that both matters involve similar or related perpetrators.

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As more fully set forth below, both NSD and Groundswell appear to have violated the prohibition on fraudulent solicitation of campaign funds set forth at 2 U.S.C. § 441h(b). NSD and its representatives appear to have violated § 441h(b)(2) by knowingly and willfully participating in, or conspiring to participate in, a plan, scheme or design to engage in fraudulent solicitation, while Groundswell appears to have knowingly and willfully violated § 441h(b)(1) by mailing allegedly fraudulent fundraising letters requesting contributions to fund a grassroots effort to benefit Congressman Gephardt's Presidential campaign. Based on the information provided in the complaint, Groundswell also appears to have violated the Act by using contributor information from reports on file with the Commission. *See* 2 U.S.C §§ 438(a)(4). In addition, Groundswell appears to have violated the Act by failing to register and report as a political committee with the Commission based on the fundraising solicitation attached to the complaint. *See* 2 U.S.C. §§ 433, 434.

II. MUR 5384 – NEVER STOP DREAMING, INC.

A. Factual Summary

The complaint in MUR 5384 alleges that Jade Newhart and Bill Baulding of NSD fraudulently misrepresented their organization as acting on behalf of the Gephardt Committee in connection with the planning of a fundraiser for the purpose of soliciting funds. According to the complaint, the organization hired the National Museum of Women in the Arts ("the Museum") to hold a fundraiser on behalf of the Gephardt Committee, falsely informing the Museum's staff that its representatives were in direct contact with the candidate, the candidate's wife and campaign committee. The Gephardt Committee sent a copy of its complaint to NSD via e-mail, but reportedly received no response from the organization. NSD similarly did not respond to the

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Commission's complaint notification letter, which was mailed to the only known address for the organization.

According to e-mails submitted with the complaint, NSD began planning the purported Gephardt fundraiser, scheduled for September 23, 2003, as early as June 2003. In an e-mail to the Museum on June 20, 2003, Baulding represented that the Gephardt Committee would be responsible for payments to the Museum, stating:

Baulding later informed the Museum, "The invitation order has been sent to the House of Representatives printing office and we've requested a copy of the guest list from the campaign."

On July 10, 2003, Jade Newhart signed an agreement with the Museum to rent its facilities for the fundraising event, listing herself as the Director of NSD. *See* Compl. at 2, Attach. 5. Following execution of this agreement, Baulding asked the Museum's staff to "confirm receipt of a check in the amount of two thousand dollars (\$2,000) from the Gephardt campaign to cover the initial deposit."

When the Museum apparently informed Baulding that it had not received payment for the event, Baulding stated:

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6 The complaint asserts that the Gephardt Committee learned
7 of NSD's planned fundraiser when the Museum called the Committee regarding the
8 correspondence it received from Baulding and that no person associated with the Gephardt
9 Committee or Congressman Gephardt had knowledge of the activities of Baulding, Newhart, or
10 NSD. *See* Compl. at 1.

11 Publicly available information indicates that NSD may be a fictitious entity created
12 specifically to engage in fraudulent activities:

- 13 ■ A search of public records indicates that the names of the individuals associated with
14 NSD, Jade Newhart and Bill Baulding, are aliases.
- 15 ■ An individual with the name "Jade Newhart" has the same Alexandria address given by
16 NSD in its corporate registration and e-mails to the Museum and has used two Social
17 Security Numbers ("SSN"). The first SSN belongs to Carlos Vega Negron, a female
18 resident of Puerto Rico, while the second is in a series that has not been issued by the
19 Social Security Administration.¹
- 20 ■ NSD's e-mails to the Museum list an address and phone number in Alexandria, Virginia.
21 The phone number and address listed by NSD in its e-mails, however, are associated with
22 Washington Suites Alexandria, a hotel featuring business rental suites.
- 23 ■ No organization named NSD is listed with Directory Assistance in Virginia, Maryland, or
24 the District of Columbia; however, NSD registered as a Virginia corporation on May 12,
25 2003. The address on file with the Virginia State Corporation Commission is that of the
26 Washington Suites Alexandria and Jade Newhart is the sole individual registered in
27 connection with NSD.

¹ The second SSN used by "Jade Newhart" is in the 830-series, which has not been issued by the Social Security Administration. *See* Social Security Number Monthly Issuance Table, at <http://www.ssa.gov/employer/highgroup.txt> (Mar. 1, 2004).

- 1 ▪ NSD is not registered with the Commission or the Internal Revenue Service ("IRS") and
2 has filed no disclosure reports with either agency. Internet, Westlaw, and Lexis searches
3 for the organization produced no relevant results. NSD's e-mail address appears to be no
4 longer valid based on a reverse lookup.

5 When considered in the context of the fraudulent fundraising activities alleged in the complaint,
6 these facts suggest that NSD is not a legitimate enterprise.

7 **B. Legal Analysis**

8 Section 441h(a) prohibits any person who is a candidate or an employee or agent of such
9 candidate from fraudulently misrepresenting himself as speaking, writing, or acting for or on
10 behalf of another candidate or party on a matter that is damaging to that candidate or party. The
11 Bipartisan Campaign Reform Act of 2002 ("BCRA") amended the statute by adding subsection
12 (b), which bans the fraudulent solicitation of funds by any person and prohibits any person from
13 participating in, or conspiring to participate in, plans, schemes, or designs to make such
14 fraudulent misrepresentations in soliciting contributions and donations. *See* 2 U.S.C. § 441h(b);
15 *see also* 11 C.F.R. § 110.16.

16 Subsection (b) was intended to address the Commission's inability under the pre-BCRA
17 statute to pursue enforcement actions against persons and organizations not associated with a
18 candidate who engage in fraudulent solicitation of funds. *See* Final Rule on Disclaimers,
19 Fraudulent Solicitation, Civil Penalties, and Personal Use of Campaign Funds, 67 Fed. Reg.
20 76,962, 76,969 (Dec. 13, 2002). In enacting § 441h(b), Congress cited the Commission's
21 inability to take action against organizations fraudulently soliciting funds by posing as political
22 committees or candidates:

23 [T]he Federal Election Commission reports receiving a number of
24 complaints that people have fraudulently raised donations by
25 posing as political committees or candidates and that the current
26 law does not allow the Commission to pursue such cases....

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1 Clearly, one can see the potential for harm to citizens who are
2 targeted in such fraudulent schemes. Unfortunately, the Federal
3 Election Campaign Act does not grant specific authority to the
4 Federal Election Commission to investigate this type of activity,
5 nor does it specifically prohibit persons from fraudulently
6 soliciting contributions. The FEC has asked Congress to remedy
7 this, and the amendment I offer today is in response to this request.
8 This amendment makes it illegal to fraudulently misrepresent any
9 candidate or political party or party employee in soliciting
10 contributions or donations.

11 147 CONG. REC. S3122 (daily ed. Mar. 29, 2001) (Statement of Sen. Nelson). The limited
12 legislative history of subsection (b) indicates that Congress intended the prohibition on
13 fraudulent solicitation to apply to any entity that fraudulently raises donations by posing as a
14 political committee or candidate, or participates in a scheme intended to fraudulently raise
15 donations by posing as a political committee or candidate. *See id.*; *see also Federal Election*
16 *Commission Annual Reports* for 2001 at 39, for 1999 at 47-48, for 1998 at 52, for 1997 at 47
17 (recommending that Congress amend § 441h to prohibit fraudulent solicitation because
18 contributions that people believed were going for the benefit of the candidate were diverted for
19 other purposes, harming both the candidates and the contributors were harmed).

20 The information available indicates that NSD, Jade Newhart, and Bill Baulding may have
21 violated § 441h(b)(2) by knowingly and willfully participating in or conspiring to participate in a
22 plan, scheme or design to engage in fraudulent solicitation.² In e-mails to the Museum, Baulding
23 misrepresented that NSD was planning a fundraiser on behalf of the Gephardt Committee,
24 explicitly stating that the Gephardt Committee would be responsible for payments to the

² Section 441h(b)(2) requires that a Respondent "willfully and knowingly" participate in, or conspire to participate in, a plan, scheme or design to engage in fraudulent solicitation. Thus, "knowing and willful" is an element of the statute rather than a separate basis for increased civil and criminal liability under 2 U.S.C. § 437g(d)(1)(C).

1 Museum. Baulding also misrepresented that both he and Newhart were in direct contact with
2 both Congressman Gephardt and his wife and that the campaign would provide the guest list for
3 the fundraising dinner. Further, according to the complaint, Jade Newhart signed an agreement
4 with the Museum to rent its facilities for the fundraising event on behalf of NSD, apparently
5 using an alias to do so. By taking these steps to set up a fundraiser for Congressman Gephardt
6 under false pretenses, the actions of Baulding and Newhart, as representatives of NSD, indicate
7 that the organization may have planned to solicit funds from Gephardt supporters at the
8 fundraiser and divert the money for other purposes. Although NSD's plan to solicit funds
9 apparently was thwarted by the Museum's phone call to the Gephardt Committee, Baulding and
10 Newhart's activities nevertheless suggest that they participated in a plan, scheme, or design to
11 fraudulently solicit funds.

12 Finally, participation in the scheme to engage in fraudulent solicitation by NSD, Newhart,
13 and Baulding appears to have been knowing and willful. The knowing and willful standard
14 requires knowledge that one is violating the law. *See Federal Election Comm'n v. John A.*
15 *Dramesi for Congress Comm.*, 640 F. Supp. 985, 987 (D.N.J. 1986). Proof that a defendant
16 acted deliberately and with knowledge that the representation was false may establish a knowing
17 and willful violation, and a jury may infer that a defendant's acts were knowing and willful from
18 the defendant's elaborate scheme to disguise his actions. *See United States v. Hopkins*, 916 F.2d
19 207, 214-15 (5th Cir. 1990). Indeed, "[i]t has long been recognized that 'efforts at concealment
20 [may] be reasonably explainable only in terms of motivation to evade' lawful obligations." *Id.* at
21 214 (quoting *Ingram v. United States*, 360 U.S. 672, 679 (1959)).

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Here, the apparent use of aliases and false Social Security numbers by Jade Newhart and Bill Baulding suggests an elaborate scheme by NSD and its representatives to disguise its actions and evade detection of the true identities of the participants. The actions of NSD are explained only by a motivation to defraud prospective donors and engage in fraudulent solicitation. Moreover, it is implausible that Newhart and Baulding did not know that their representations of contact with representatives of the Gephardt Committee, including Congressman Gephardt and his wife, were false.

Accordingly, this Office recommends that the Commission find reason to believe that Never Stop Dreaming, Inc., Jade Newhart, and Bill Baulding violated 2 U.S.C. § 441h(b) by knowingly and willfully participating in, or conspiring to participate in, a plan, scheme or design to engage in fraudulent solicitation.

III. MUR 5385 – GROUNDSWELL VOTERS PAC

A. Factual Summary

1. Complaint

The Gephardt Committee alleges that Groundswell violated the Act's prohibition on fraudulent solicitations by mailing a fundraising letter requesting contributions to fund a grassroots effort to benefit Gephardt's Presidential campaign. Groundswell's undated fundraising letter, which was attached to the complaint, asserted that the organization planned extensive get-out-the-vote efforts during the primaries in support of Gephardt and stated that the organization was:

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The letter

9 requested contributions of up to \$5,000 and promised to use the funds it received for grassroots
10 efforts "to help propel Dick Gephardt to the Democratic nomination and on to the Presidency in
11 2004." *Id.* Groundswell's fundraising solicitation did not contain a disclaimer that the
12 communication was not authorized by the Gephardt Committee.

13 The Gephardt Committee asserts that it was wholly unaware of the organization's
14 fundraising activities. In August 2003, the Gephardt Committee obtained copies of the
15 fundraising solicitation sent by Groundswell and concluded that the intent of the solicitation was
16 to mislead Congressman Gephardt's supporters for its own private gain rather than to support his
17 campaign. *See Compl.* at 1. Counsel for the Gephardt Committee sent a letter to Groundswell
18 on August 20, 2003, demanding that the organization cease and desist the use of Congressman
19 Gephardt's name. *See id.* at 2. The letter also requested that the group provide a written
20 accounting of funds raised through the solicitation and detail its plans to return the money to the
21 original donors. *See id.*

22 The Gephardt Committee reportedly received no response to its letter. The Gephardt
23 Committee contends, however, that changes to the organization's website indicate that
24 Groundswell received the letter. Following the cease-and-desist letter mailed by the Gephardt
25 Committee, the website reportedly added the following language:

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Please note: Our political agenda has changed but our website is still being updated to reflect these changes. Our recent advocacy of candidates to Federal office may subject your contribution to limitations imposed by the Federal Elections Campaign Act.

Compl. at 2. A printout of Groundswell's website attached to the complaint states, "Before the war we did not advocate the election or defeat of candidates or holders of political office. We now support efforts of the Democratic candidates for the Presidency." Compl. Attach. B. According to the complaint, the website disavowed any effort to advocate the election or defeat of federal candidates prior to the Gephardt Committee's attempts to contact the organization. See Compl. Attach. C (copied by Gephardt Committee staff on Aug. 20, 2003).

The complaint also alleges that Groundswell obtained the names of the individuals it solicited for contributions from reports on file with the Commission. The Gephardt Committee asserts that "the names of the individuals known to have received the solicitation led the Committee to conclude that Groundswell Voters PAC had obtained them from reports on file with the Federal Election Commission." Compl. at 1-2. According to the Gephardt Committee, Congressman Gephardt's reports included contributions from individuals in Missouri who had not contributed to any other candidate or political organization. Because the names and addresses of these contributors were not available from other sources, the Gephardt Committee concluded that Groundswell had obtained the names of the individuals it solicited for contributions from reports filed with the Commission. See Attachment 1.

Finally, the Gephardt Committee alleges that Groundswell violated the Act by failing to register as a political committee with the Commission despite the inclusion of "PAC" in its name and the "large sums spent expressly advocating the election of Federal candidates." Compl. at 3. Although the complaint and its attachments contain no information regarding how much money

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1 Groundswell has raised or spent, Groundswell's fundraising letters request contributions of up to
2 \$5,000 to support Groundswell Voters PAC's effort to boost Dick Gephardt. *See* Compl. Attach.
3 A at 5.

4 Groundswell filed no response to the complaint and, as discussed above, reportedly did
5 not reply to the Gephardt Committee's attempts to contact it.

6 2. Preliminary Research

7 Groundswell Voters PAC registered as a Michigan nonprofit corporation on January 28,
8 2003. Despite its name, it is not registered as a political committee with either the Commission
9 or the Michigan Secretary of State. Although Groundswell's fundraising letter states that it is
10 registered as a 527 organization dedicated to the election of a Democratic President and lists an
11 IRS tax identification number, a search of the IRS database produced no results. *See* Compl.
12 Attach. A at 4 ("Paid for by Groundswell Voters PAC, an independent Political Action
13 Committee, registered with the IRS #061674019, and dedicated to putting a Democrat in the
14 White House.".)³ In addition, both the Groundswell literature and website provide an address in
15 Bethesda, Maryland, but Directory Assistance in Maryland, Virginia and the District of Columbia
16 lists no organization by that name.⁴ Thus, the Groundswell fundraising letter misrepresents the

³ Groundswell's website is no longer active but its content is partially accessible through the Internet Archives. *See generally* Internet Archive Results for Groundswell Voters, at http://web.archive.org/web/*/http://groundswellvoters.org (last visited Mar. 15, 2004). Groundswell's archived website indicates that the organization initially represented itself as part of the coalition of non-profit organizations opposing the war in Iraq. The original website offered activist kits and anti-war merchandise in return for donations of specified amounts and requested unlimited individual, foreign and corporate contributions to support its anti-war activism, as well as business sponsorship of its website in return for contributions of \$20,000 or more. A message posted on a message board around the time Groundswell appears to have created its website warned potential donors that Groundswell was a telemarketing scam directed at anti-war activists. *See* Posting of Matth65, to Vermont Independent Media Center, at <http://www.vermontindymedia.org/home/assignment> (Mar. 15, 2003).

⁴ Groundswell's fundraising solicitation and literature lists its address as 6701 Democracy Boulevard, Suite 300, Bethesda, MD 20817. The building located at this address, Democracy Boulevard Center, offers executive
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organization as a political action committee, provides an invalid address, and presents a false IRS
tax registration number.

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business suites with lease terms ranging from one month to five years. *See Democracy Boulevard Center, available at <http://www.executive--suites.com> (last visited Mar. 31, 2004).*

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13 In the instant matter, Groundswell's Articles of Incorporation identify Mosier as the
14 registered agent for the organization and Jerome Dewald as the incorporator, and are signed by
15 Dewald. *See* Groundswell Voters PAC Articles of Incorporation at 2-3 (Jan. 28, 2003). In
16 addition, Groundswell's domain name is registered to Mosier at PAC Services. Notably, the
17 registered agent for PAC Services is Jerome Dewald and the address listed for PAC Services is
18 identical to both the address listed in Groundswell's corporate registration and the business

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address provided for Dewald

Prior to receiving notification of the complaint filed against Groundswell, Mosier informed the Commission by letter that he had resigned as Treasurer from Groundswell and no longer had any affiliation with PAC Services.

This notification, dated three days after Dewald's sentencing on state criminal charges, occurred despite the fact that Groundswell never registered with the Commission and had not been notified of the complaint at that point. Despite Mosier's letter, the Michigan Corporation Division's database indicates that Groundswell's corporate registration is active and continues to list Mosier as the registered agent. See Michigan Corporation Division, at http://www.cis.state.mi.us/bcs_corp/rs_corp.asp (last visited Oct. 26, 2004).

B. Legal Analysis

1. Fraudulent Solicitation of Funds

As discussed above, § 441h(b) prohibits a person from fraudulently misrepresenting that the person is speaking, writing or otherwise acting for, or on behalf of, a Federal candidate or political party, or the agent of either, for the purpose of soliciting contributions or donations. Groundswell appears to have violated § 441h(b)(1) by mailing fraudulent fundraising letters requesting contributions to fund a grassroots effort for Gephardt's Presidential campaign.⁷ The letters mailed by Groundswell requested contributions of up to \$5,000 and promised to use the funds it received "to help propel Dick Gephardt to the Democratic nomination and on to the

⁷ It is unknown at this time whether the Groundswell fundraising solicitations yielded any contributions.

1 Presidency in 2004" through get-out-the-vote activities including phone calls, door-to-door
2 canvassing and letters to likely supporters during the Iowa and New Hampshire primary
3 elections. The letters were misleading and could have led reasonable people to conclude that the
4 Gephardt Committee authorized the communications or was involved in generating the
5 fundraising solicitation. *See* Compl. Attach. A at 5 ("Will you join Groundswell Voters PAC in
6 supporting Dick Gephardt for President?"). This is particularly so because the letters did not
7 contain a disclaimer that the communication was unauthorized by the Gephardt Committee or
8 otherwise indicate that Groundswell's purported efforts were independent of the authorized
9 campaign committee, and because some of the contributors targeted by Groundswell allegedly
10 had contributed only to the Gephardt Committee. *See id.* at 4-5.

11 Further, the circumstances present a classic case of fraud. Like NSD, Groundswell
12 appears to have made false statements that were intentionally designed to mislead reasonable
13 people. Groundswell held itself out as a PAC even though it has not registered with the
14 Commission and provided what appear to be a false address and false IRS registration number on
15 its website. These circumstances, coupled with the involvement of Jerome Dewald and Jon
16 Mosier and the fact that the Gephardt Committee was wholly unaware of this organization or its
17 fundraising activities, all point to a fraudulent scam designed to solicit money under false
18 pretenses.

19 Accordingly, this Office recommends that the Commission find reason to believe that
20 Groundswell Voters PAC knowingly and willfully violated 2 U.S.C. § 441h(b) by fraudulently
21 misrepresenting that it was acting for or on behalf of Congressman Gephardt in soliciting
22 contributions or donations. Based upon the circumstances presented, this Office further

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1 recommends that the Commission find reason to believe that Jonathan Mosier and Jerome
2 Dewald knowingly and willfully violated 2 U.S.C. § 441h(b).

3 **2. Use of Information from Disclosure Reports to Solicit Contributions**

4 The Gephardt Committee alleges that Groundswell copied names from disclosure reports
5 filed with the Commission, basing its conclusion on the identity of the individuals targeted by
6 Groundswell. Specifically, counsel for the Gephardt Committee stated that the list of individuals
7 who received solicitations from Groundswell included Missouri contributors to the Gephardt
8 Committee who had not contributed to any other candidate or committee and had not engaged in
9 any other political contribution activity. Based on this information, the Gephardt Committee
10 concluded that Groundswell had used names from the committee's disclosure reports filed with
11 the Commission in violation of 2 U.S.C. § 438(a)(4).

12 Any information copied from reports filed with the Commission may not be sold or used
13 by any person for the purpose of soliciting contributions or for commercial purposes, other than
14 using the name and address of any political committee to solicit contributions from such
15 committee. *See* 2 U.S.C. § 438(a)(4). For purpose of this provision, "soliciting contributions"
16 includes soliciting any type of contribution or donation, such as political or charitable
17 contributions. *See* 11 C.F.R. § 104.15(b).

18 Although the Gephardt Committee did not furnish a list of names that formed the basis
19 for its conclusion, the information it has provided to date appears to be sufficient to support an
20 investigation into the source of Groundswell's contributor list in the absence of an alternative
21 explanation submitted by Groundswell, particularly in light of information suggesting that
22 Groundswell intended to defraud potential donors. Accordingly, this Office recommends that the

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Commission find reason to believe that Groundswell Voters PAC knowingly and willfully violated 2 U.S.C. § 438(a)(4).

3. Failure to Register as a Political Committee

The Act defines a political committee as any committee, club, association, or other group of persons that receives contributions or makes expenditures aggregating in excess of \$1,000 during a calendar year. 2 U.S.C. § 431(4)(A). Contributions and expenditures are broadly defined – these terms include anything of value that is given or received for the purpose of influencing a federal election. *See* 2 U.S.C. § 431(8)(A), (9)(A). Pursuant to the Act, an organization that qualifies as a political committee must register with the Commission by submitting a statement of organization within ten days of designation and report receipts and disbursements on a periodic basis. *See* 2 U.S.C. §§ 433, 434.

Despite the fact that Groundswell does not appear to be a legitimate enterprise, Groundswell may have received over \$1,000 in contributions, which would have required the organization to register and report as a political committee. First, the fundraising solicitation attached to the complaint states that Groundswell is “dedicated to putting a Democrat in the White House.” Compl. Attach. A at 5. In addition, the fundraising solicitation states the following:

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3 Compl. Attach. A at 5. Because these solicitations clearly indicate that funds received would be
4 targeted to the election or defeat of a clearly identified candidate for federal office, they solicit
5 contributions for purposes of the Act. *See FEC v. Survival Education Fund, Inc.*, 65 F.3d 285,
6 295 (2d Cir. 1995). Although information regarding the amount of contributions raised in
7 response to the solicitations is unavailable, it is likely that the amount exceeds \$1,000 based on
8 the large number of individual contributors to Congressman Gephardt and the alleged duplication
9 of contributor information from the Gephardt Committee's disclosure reports.

10 Accordingly, this Office recommends that the Commission find reason to believe that
11 Groundswell violated 2 U.S.C. §§ 433, 434 by failing to register as a political committee and
12 report its contributions and expenditures to the Commission.

13 **IV. PROPOSED FURTHER ACTION**

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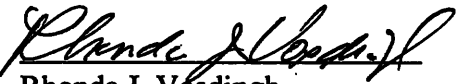
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V. RECOMMENDATIONS


1. Find reason to believe that Never Stop Dreaming, Inc., Jade Newhart, and Bill Baulding violated 2 U.S.C. § 441h(b) by knowingly and willfully participating in, or conspiring to participate in, a plan, scheme or design to engage in fraudulent solicitation.
2. Find reason to believe that Groundswell Voters PAC, Jonathan Mosier, and Jerome Dewald knowingly and willfully violated 2 U.S.C. § 441h(b)
3. Find reason to believe that Groundswell Voters PAC, Jonathan Mosier, and Jerome Dewald knowingly and willfully violated 2 U.S.C. § 438(a)(4)
4. Find reason to believe that Groundswell Voters PAC violated 2 U.S.C. §§ 433, 434 by failing to register as a political committee and report its contributions and expenditures to the Commission, but take no further action.
5. Approve the appropriate Factual and Legal Analyses.
- 6.
7. Approve the appropriate letters.

Lawrence H. Norton
General Counsel

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6 Date

BY: 
Rhonda J. Vosdigh
Associate General Counsel for Enforcement

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Ann Marie Terzaken
Assistant General Counsel

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Julie K. McConnell
Attorney

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